

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN LARRY JENT**, on January 26, 2005 at 8:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Larry Jent, Chairman (D)  
Rep. Veronica Small-Eastman, Vice Chairman (D)  
Rep. Joan Andersen (R)  
Rep. Mary Caferro (D)  
Rep. Sue Dickenson (D)  
Rep. Emelie Eaton (D)  
Rep. Robin Hamilton (D)  
Rep. Gordon R. Hendrick (R)  
Rep. Teresa K. Henry (D)  
Rep. Hal Jacobson (D)  
Rep. William J. Jones (R)  
Rep. Gary MacLaren (R)  
Rep. Bruce Malcolm (R)  
Rep. Alan Olson (R)  
Rep. Bernie Olson (R)

**Members Excused:** Rep. Dee L. Brown, Vice Chairman (R)

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Marion Mood, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 325, 1/18/2005;  
HB 211, 1/21/2005; HJ 6, 1/18/2005;  
HB 123, 1/21/2005  
Executive Action: HB 211; 244

**HEARING ON HB 325****Opening Statement by Sponsor:**

**REP. PENNY MORGAN (R), HD 57**, opened the hearing on **HB 325**, Revise political party nominations and appointments for vacancy of candidate in primary elections. **REP. MORGAN** explained that in a contested primary election, if the winning party's candidate is prohibited by law from accepting the nomination because of a violation of the provisions of this Title, the candidate with the second most votes wins the party's nomination. If, in an uncontested primary race, the party nominee breaks the law, the party cannot reappoint someone else for the general election.

**Proponents' Testimony:** None

(CHAIRMAN JENT left the hearing at 8:05 A.M. to testify in another hearing; VICE CHAIR SMALL-EASTMAN chaired in his place)

**Opponents' Testimony:**

**Brad Martin, Montana Democratic Party**, stated that he considered himself a qualified opponent. He suggested careful consideration of HB 325; if the precise language of the bill simply prevents a party from appointing a candidate in a contested primary race, he would support it because, if two candidates file for the same party and one is disqualified, the party would still have a candidate. If, on the other hand, the bill prevents a party from appointing another candidate in an uncontested primary should the initial candidate be disqualified, he would strongly oppose HB 325. He stated that elections are about choices; it is important to have as many voices heard and sides represented as possible.

**Questions from Committee Members and Responses:**

**REP. ALAN OLSON, HD 45, ROUNDUP**, remarked that he had requested a similar bill which was still being drafted; **REP. MORGAN** was unaware of this. **REP. A. OLSON** opined that a hearing should be held in order to establish the ineligibility of a candidate. **REP. MORGAN** was not sure how this would make a difference. **REP. A. OLSON** asked who made the determination that a candidate was ineligible. **REP. MORGAN** replied that it would be the Office of Political Practices. **REP. A. OLSON** suggested an amendment which would stipulate that the Office of Political Practices determined a candidate's ineligibility through a hearings process. **REP. MORGAN** stated that she would be open to such an amendment.

**REP. A. OLSON** referred to New Section 1 and asked what would happen if a party's only candidate became ineligible; if the

party would be able to replace him. **REP. MORGAN** quoted Subsection (3), "This section does not apply if the application of this section would result in none of the political parties nominating a candidate for the general election." She explained that if the ineligibility causes there not to be a candidate in the general election, it would make Section 1, Subsections (1) and (2) moot. **REP. A. OLSON** surmised that this meant there will not be a candidate at all in the general election. He felt that there needed to be more clarification and offered to work with the sponsor.

**REP. WILLIAM JONES, HD 9, BIGFORK**, asked the sponsor if this bill was an attempt to break down political parties. **REP. MORGAN** replied that her intent was to ensure that political parties nominated qualified candidates only. **REP. JONES** wondered whether the party had any control over who filed for office. **REP. MORGAN** did not think so and added that it was the party's job to make sure their candidate was eligible. **REP. JONES** inquired if the party could inhibit him from filing for office. **REP. MORGAN** replied that they could not; she contended that was the reason for HB 325. In the event that he was ineligible, they could put forth a qualified candidate in an uncontested primary.

**REP. SUE DICKENSON, HD 25, GREAT FALLS**, asked Mr. Martin if a candidate in an uncontested primary turned out to be ineligible, was that candidate's party prohibited from putting forth another nominee. **Mr. Martin** replied that this was his concern. The situation was different in a contested primary since, if one candidate turned out to be ineligible, his party would probably not replace him to run against the other one. **REP. DICKENSON** surmised that if the only candidate died, his party could replace him, which **Mr. Martin** confirmed.

(CHAIRMAN JENT returned)

**REP. A. OLSON** inquired how the ineligibility issue would be handled under current statute, citing the ineligibility of the candidate for Lieutenant Governor during the previous primary. **Mr. Martin** advised that the party would be notified by the Secretary of State and would convene a meeting of the State Committee at which time a new ticket would be nominated. He cautioned that this had to be done at least 75 days prior to the election so a new ballot could be printed.

**REP. A. OLSON** turned to Gordon Higgins, Commissioner of Political Practices, and commented that the public had been told that the Commission had no controlling authority. **Mr. Higgins** stated that his office could not provide a remedy but was authorized to investigate an alleged violation. He deferred to Dulce Hubbert,

Program Supervisor, Office of the Commissioner of Political Practices, who had been part of that investigation. **Ms. Hubbert** advised that in the above-mentioned case, the office received a complaint alleging violation of a statute dealing with deceptive election practices (false swearing) by candidate Mihelic. Her office determined that he was *not* a Montana resident but could not do anything about it, such as remove him from the ballot, because qualification issues are handled by the Secretary of State.

**REP. A. OLSON** wondered if language in the bill could not be adjusted to coordinate the efforts by the Commissioner of Political Practices and the Secretary of State's Office, thereby allowing the Commissioner's Office to conduct the hearing and have the Secretary of State's Office take action. **Ms. Hubbert** advised that this would be possible if it was a statute over which her office had jurisdiction.

**Closing by Sponsor:**

**REP. MORGAN** closed.

**{Tape: 1; Side: A; Approx. Time Counter: 0 - 27.1}**

(CHAIRMAN JENT took over the meeting)

**HEARING ON HB 211**

**Opening Statement by Sponsor:**

**REP. JOHN PARKER (D), HD 23**, opened the hearing on **HB 211**, Revise term of supreme court. He advised that HB 211 did not impose term limits on the justices but merely requires the term during which the Supreme Court meets to start on the first day of January of each year. Current law allows for multiple terms in any given year and was established when the caseload was much lighter.

**Proponents' Testimony:**

**Ed Smith, Clerk of the Montana Supreme Court**, agreed that this was a housekeeping bill. He recounted that since its inception in 1864, the Court has met every three months. In the 1960's, the Court was not in session during the summer months but due to today's caseload, it was determined that a continuous session was necessary.

**Opponents' Testimony:** None

**{Tape: 1; Side: B}**

**Questions from Committee Members and Responses:**

**REP. JOAN ANDERSEN, HD 59, FROMBERG,** recalled that the Supreme Court has held meetings in various parts of the state and wondered if they took the seat of Government with them since statute requires the terms must be held at the seat of Government. **REP. PARKER** deferred to **Mr. Smith** who explained that for all constitutional offices, the seat of government is Helena; this does not affect court being held in other locations because they do have the right to do so.

**Closing by Sponsor:**

**REP. PARKER** closed.

**HEARING ON HJ 6****Opening Statement by Sponsor:**

**REP. JONATHAN WINDY BOY (D), HD 32,** opened the hearing on **HJ 6**, Urge USDA to locate rural development satellite offices in rural Montana, specifically to relocate the Rural Development Office to Glasgow. He referred to the map contained in Exhibit 1, stating that the eastern part of the state did not have much representation since the relocation of the Glasgow office to Billings. In his opinion, this inhibited economic development in rural areas, and it was exacerbated by the closing of other rural offices as noted in letters contained in Exhibit 1. **REP. WINDY BOY** recalled that one of the regional directors, Debbie Swanson, continued to work for the office but now was commuting from her home in Glasgow.

**EXHIBIT**(sth20a01)

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. JONES** asked the sponsor where Glasgow was located as he could not find it on the map. **REP. WINDY BOY** advised that it is in the middle of Valley County. **REP. JONES** inquired why Glasgow was chosen. **REP. WINDY BOY** explained that it was only one office of many which were closed, referring to the letter to Sen. Max Baucus. He chose Glasgow because it is in his district. **REP. JONES** still questioned why it should be Glasgow when Broadus would be more representative of the area. **REP. WINDY BOY** stated

that he was open to an amendment, adding that HJ 6 was only a first step.

**REP. A. OLSON** wondered if the Glasgow office was still open as a satellite office. **REP. WINDY BOY** replied that the USDA office is open but performs other functions; the Rural Development Office was relocated. **REP. A. OLSON** surmised that there was no satellite rural development in Glasgow, which the sponsor confirmed.

**REP. ROBIN HAMILTON, HD 92, MISSOULA**, asked the sponsor to describe some of the typical functions of a Rural Development Office. **REP. WINDY BOY** advised that it mainly provided assistance in filling out forms and steering the applicant to the proper office or authority.

**REP. ANDERSEN** referred to the above-mentioned letter and asked whether there had been many rural offices in eastern Montana which were then moved to Billings. **REP. WINDY BOY** confirmed that conclusion. **REP. ANDERSEN** wondered what had happened to the regional directors. **REP. WINDY BOY** advised that they had become unemployed. **REP. ANDERSEN** surmised that Debbie Swanson was the only person who moved on to Billings. **REP. WINDY BOY** affirmed this.

**REP. DICKENSON** asked the sponsor to assess the potential influence this resolution might have on Montana's congressional delegation, citing the response from Senator Conrad Burns. **REP. WINDY BOY** replied that it was hard to say, considering the national budget woes, but expressed hope that his proposal would merit consideration.

**REP. JONES** inquired whether this could fit in with the tribal economic development bill which the Committee had previously heard. **REP. WINDY BOY** advised that his proposal did not have any direct impact but would benefit the Fort Peck Reservation since the satellite office had offered services in conjunction with Wolf Point.

**Closing by Sponsor:**

**REP. WINDY BOY** closed.

(CHAIRMAN JENT proposed a 10-minute break; the Committee reconvened at 9:05 A.M. with VICE CHAIR SMALL-EASTMAN as chair as REP. JENT left to testify in another committee)

**HEARING ON HB 123**

**REP. TOM FACEY (D), HD 95**, opened the hearing on **HB 123**, Campaign literature party affiliation disclosure requirements. He stated that he was open to an amendment stating a specific size for the party affiliation rather than insisting that it be 1/6th of the size of the candidate's name.

**Proponents' Testimony:**

**Brad Martin, Montana Democratic Party**, stated that he had no objections should the Committee want to amend the bill as outlined by the sponsor. He stated that party does matter, and people should be able to know a candidate's ideology.

**Opponents' Testimony:** None

**Informational Testimony:**

**Gordon Higgins, Commissioner of Political Practices**, stated that Section 13-35-225, Montana Code Annotated (MCA), was under the jurisdiction of his office and he would be enforcing this new law should it pass. He added that he did not take any position on the merits of HB 123 but suggested an amendment specifying that the name of the party should be displayed, not the symbol.

**Questions from Committee Members and Responses:**

**REP. BERNIE OLSON, HD 10, LAKESIDE**, referred to the hearing for HB 325, saying that he envisioned being disqualified if he did not meet the requirements under HB 123.

*{Tape: 2; Side: A}*

**REP. FACEY** replied that if it was in code, parties would be aware and advise candidates accordingly. He added that not every infraction would lead to a disqualification. It was possible that it would not be more than a reprimand and asked Mr. Higgins to answer the question. **Mr. Higgins** explained that such an infraction would not be a ballot qualification issue; one would merely be asked to come into compliance.

**REP. A. OLSON** wondered if this meant that candidates would have to worry about the sign police. **REP. FACEY** stated that they would not, citing that many of the signs in the last election did not state party affiliation, including those of the candidate for Governor. He added that current law requires inclusion of the party affiliation, and HB 123 only requires that it be discernible for a driver going 25 mph.

**REP. A. OLSON** asked Ms. Hubbert how many sign complaints her office received in a typical election year. **Ms. Hubbert** advised that they had not received any official complaints with regard to violation of the disclaimer statute but had received several hundred concerning other areas of the law. As Commissioner Higgins had stated earlier, the parties involved are contacted and advised of the requirements.

**REP. B. OLSON** inquired if the sponsor was open to the use of the party's symbol rather than the name. **REP. FACEY** stated that it would be appropriate except that third parties' symbols were unclear. **REP. OLSON** suggested that an amendment could specify a "known" symbol, and absent a known symbol, the name could be used. **REP. FACEY** stated his support.

(CHAIRMAN JENT returned at 9:20 A.M.)

**REP. ANDERSEN** wondered if a candidate could use a shortened version of the party's name. **REP. FACEY** said that as long as the Committee members heeded the spirit of HB 123, he would leave the details up to them. **REP. ANDERSEN** contended that it would be a hardship for the candidate whose name on a road sign was 18 inches high to also display a three-inch high party name. **REP. FACEY** suggested a couple of different sizes, depending on the overall size of a sign.

**REP. ANDERSEN** asked if current statute specified the use of the party symbol instead of its name. **Mr. Higgins** deferred to **Ms. Hubbert** who advised that current statute allows either the symbol or the name. **REP. ANDERSEN** asked whether the Commissioner of Political Practices would deem the symbol adequate if the party in question had one, and the party name if a minor party had no symbol. **Ms. Hubbert** stated that in enforcing the statute, her office has advised people that party symbols were sufficient in communications. If there was no symbol, they should make it known by name which party they represented.

**REP. JONES** wondered if anyone had ever brought up the safety issue related to trying to decipher signs while driving. **REP. FACEY** was unaware of such a study.

**Closing by Sponsor:**

**REP. FACEY** closed.



**EXECUTIVE ACTION ON HB 211**

**Motion/Vote:** REP. JACOBSON moved that HB 211 DO PASS. Motion carried 15-1 by voice vote with REP. JONES voting no; VICE CHAIR BROWN voted aye by proxy.

**EXECUTIVE ACTION ON HB 244**

**Motion/Vote:** REP. OLSON moved HB 244. Motion carried unanimously by voice vote; VICE CHAIR BROWN voted aye by proxy.

REP. ANDERSEN asked that HB 244 not be put on the consent calendar because of its importance to Terry; she wanted the whole body to be able to hear the proposal; **CHAIRMAN JENT** agreed.

**EXECUTIVE ACTION ON HB 104**

**Motion:** REP. HAMILTON moved that HB 104 DO PASS.

**Discussion:**

REP. DICKENSON cautioned that this was a complicated retirement bill and asked to wait until someone from the Retirement System be present to answer potential questions.

REP. B. OLSON concurred, referring to his notes about the proposal's cost to the retirement system.

**CHAIRMAN JENT** agreed that Executive Action on HB 104 be postponed until January 28, 2005.

REP. HAMILTON withdrew his motion without objection.

**ADJOURNMENT**

Adjournment: 9:40 A.M.

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REP. LARRY JENT, Chairman

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MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

**EXHIBIT ([sth20aad0.TIF](#))**